

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SCARLA SMITH,

Plaintiff,

v.

STERIS CORPORATION, et al.,

Defendants.

) **CASE NO. 1:24 CV 00319**
)
) **JUDGE DONALD C. NUGENT**
)
) **MEMORANDUM OF OPINION**
) **AND ORDER DENYING**
) **PLAINTIFF'S SECOND MOTION**
) **FOR RECONSIDERATION OF**
) **APRIL 17, 2024 ORDER AND**
) **DENYING DEFENDANT STERIS**
) **CORPORATION'S MOTION**
) **FOR SANCTIONS**

This matter is before the Court on *Plaintiff's Second Motion to Reconsider Order Dismissing Individual Defendants* (ECF #27). In response to the motion, Defendant STERIS Corporation ("STERIS") filed *Defendant STERIS Corporation's Motion for Sanctions and Memorandum in Opposition to Plaintiff's Second Motion for Reconsideration* (ECF #28). The matter is now ready to rule under the provisions of N.D. OHIO L. CIV. R. 7.1(c), (d), and (e) governing motion briefing.

For the following reasons, *Plaintiff's Second Motion to Reconsider Order Dismissing Individual Defendants* (ECF #27) is DENIED, and *Defendant STERIS Corporation's Motion for Sanctions* (ECF #28) is also DENIED.

Given that the substantive legal issues raised in Plaintiff's motion have already been

raised before the Court on three previous occasions – in the briefing related to *Defendants’ Motion to Dismiss Plaintiff’s Complaint Against Individual Defendants Anna Soldo and Renato Tamaro* (ECF #4, ECF #6, ECF #7, ECF #8, ECF #11, ECF #12), in the briefing related to *Plaintiff’s Motion for Sanctions Pursuant to Fed. R. Civ. P. 11* (ECF #9, ECF #13, ECF #15), and in the briefing related to *Plaintiff’s Motion to Reconsider Order Dismissing Individual Defendants* (ECF #19, ECF #20, ECF #21, ECF #23, ECF #24) – and that the Court has issued detailed rulings related to each of these three motion briefing events, *see Memorandum of Opinion and Order (Dated April 17, 2024)* (ECF #16) (granting Defendants’ motion to dismiss the individually named defendants and denying Plaintiff’s motion for sanctions), *Memorandum of Opinion and Order Denying Plaintiff’s Motion for Reconsideration of April 17 2024 Order* (ECF #25), familiarity with the facts, legal issues, arguments, and rulings of this Court are assumed and will not be repeated here.

The issues related to the two motions now pending before this Court – Plaintiff’s second motion for reconsideration (ECF #27) and Defendant STERIS’s motion for sanctions (ECF #28) – are addressed in turn.

Plaintiff’s Second Motion to Reconsider Order Dismissing Individual Defendants (ECF #27) is DENIED. As stated in this Court’s *Memorandum of Opinion and Order Denying Plaintiff’s Motion for Reconsideration of April 17 2024 Order* (ECF #25):

This Court takes seriously its duty to independently examine the legal issues presented to it. At the time of its April 17, 2024 ruling, the Court had before it the full briefing on the motion to dismiss and the motion for sanctions. In that briefing, taken as a whole, the parties presented their arguments and case law on the effect of the ELUA amendments on individual supervisor and manager liability many times. The Court evaluated *all* of these arguments on the merits and reviewed each of the cited cases. The Court came to a decision, finding that the reasoning of the recent earlier decisions in *Sherman*, *Milliner*, and *Reeves* is a

correct statutory interpretation, and the reasoning sound. Plaintiff retains her right to later appeal that decision if she so chooses.

(ECF #25, pp. 7-8, PageID #250-#251).

Plaintiff's recent motion notes that "Smith understands that the Court is likely to deny this Motion," (ECF #27, p.1, PageID #257), while further noting that the district court in the case of *Sherman v. Pub. Emps. Ret. Sys.*, No. 22-CV-04161, 2023 U.S. Dist. LEXIS 174092 (S.D. Ohio Sept. 28, 2023) (granting Defendants' motion for judgment on the pleadings regarding Plaintiff's retaliation claim under Ohio Revised Code § 4112.02(I) and aiding and abetting claim under Ohio Revised Code § 4112.02(J)), recently granted Plaintiff Sherman's motion for reconsideration of that order, thus modifying its prior decision dismissing the individual liability claims on the pleadings. *See Sherman v. Pub. Emps. Ret. Sys.*, No. 22-CV-04161, 2024 U.S. Dist. LEXIS 136410 (S.D. Ohio Aug. 1, 2024). Notably, in that decision, the Court's final ruling was to dismiss Plaintiff Sherman's claims with prejudice for want of prosecution, 2024 U.S. Dist. LEXIS 136410, at *9, thus rendering the determinations on the Ohio Employment Law Uniformity Act's ("ELUA") amendments to Ohio's Fair Employment Practices Act non-dispositive of the case.


This Court leaves in place its earlier rulings. Accordingly, plaintiff's second motion for reconsideration is denied. As noted in this Court's earlier rulings, Plaintiff retains her right to later appeal these decisions if she so chooses.

Defendant STERIS Corporation's Motion for Sanctions (ECF #28) presents a closer call. While *Plaintiff's Second Motion to Reconsider Order Dismissing Individual Defendants* could be viewed as an attempt to try a "third bite at the apple" given this Court's prior rulings, the motion concedes that it is not so much seeking to have this Court revisit the legal issues presented in the earlier pleadings, but rather to "make a record" given the recent rulings in the *Sherman* case cited

by this Court in its prior rulings. (See ECF #27, p. 1, PageID #257). Defendant STERIS was not required to yet again engage the legal issues to form its response, even though it was called upon to expend some additional resources to prepare a response to Plaintiff's motion. A closer call, but in the end not quite arising to the level mandating sanctions under N.D. Ohio L. Rule 7.1(i).

Accordingly, *Plaintiff's Second Motion to Reconsider Order Dismissing Individual Defendants* (ECF #27) is DENIED, and *Defendant STERIS Corporation's Motion for Sanctions* (ECF #28) is also DENIED.

IT IS SO ORDERED.



DONALD C. NUGENT
United States District Judge

DATED: August 27, 2024